

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

AARON HOWARD, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

THE BEAR STEARNS COMPANIES INC., THE  
BEAR STEARNS COMPANIES INC.  
EXECUTIVE COMMITTEE, JAMES E. CAYNE,  
ALAN D. SCHWARTZ, WARREN J. SPECTOR,  
SAMUEL L. MOLINARO, JR., ALAN C.  
GREENBERG and JOHN DOES 1-10,

Defendants.

Case No. 08-CV-2804 (RWS)

*[additional captions follow]*

**PLAINTIFFS AARON HOWARD'S AND SHELDEN GREENBERG'S  
SUBMISSION REGARDING DEFENDANTS' RESPONSE TO  
MOTIONS FOR CONSOLIDATION**

ESTELLE WEBER, individually, on behalf of the	)
Bear Stearns Companies Inc. Employee Stock	)
Ownership Plan, and all others similarly situated,	)

Plaintiff, )

V. )

THE BEAR STEARNS COMPANIES, INC., )  
CUSTODIAL TRUST COMPANY, JAMES )  
CAYNE, ALAN SCHWARTZ, WARREN )  
SPECTOR, SAMUEL MOLINARO, ALAN )  
GREENBERG, and JOHN DOES 1-20, )

Defendants. )

Case No. 08-CV-2870 (RWS)

ANTHONY PISANO, individually and on behalf of all others similarly situated.

Plaintiff, )

V. )

THE BEAR STEARNS COMPANIES, INC., )  
JAMES E. CAYNE, ALAN D. SCHWARTZ, )  
WARREN J. SPECTOR, SAMUEL L. )  
MOLINARO, JR., ALAN C. GREENBERG, and )  
JOHN AND JANE DOES 1-20, )

Defendants. )

Case No. 08-CV-3006 (UA)

HANS MENOS, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

THE BEAR STEARNS COMPANIES, INC.,  
JAMES CAYNE, ALAN D. SCHWARTZ,  
WARREN J. SPECTOR, SAMUEL L.  
MOLINARO, JR., ALAN C. GREENBERG, and  
JOHN AND JANE DOES 1-10,

Defendants.

Case No. 08-CV-3035 (RWS)

IRA GEWIRTZ, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

THE BEAR STEARNS COMPANIES, INC.,  
JAMES E. CAYNE, ALAN D. SCHWARTZ,  
WARREN J. SPECTOR, SAMUEL L.  
MOLINARO, JR., ALAN C. GREENBERG, and  
JOHN AND JANE DOES 1-20,

Defendants.

Case No. 08-CV-3089 (RWS)

DREW V. LOUNSBURY, Individually and On	)	
Behalf of All Others Similarly Situated,	)	
	)	Case No. 08-CV-3326 (RWS)
Plaintiff,	)	
	)	
vs.	)	
	)	
THE BEAR STEARNS COMPANIES INC.	)	
JAMES E. CAYNE; ALAN C. GREENBERG;	)	
ALAN D. SCHWARTZ; PAUL A. NOVELLY;	)	
FRANK T. NICKELL; FREDERIC V. SALERNO;	)	
VINCENT TESE; and JOHN AND JANE DOES 1-	)	
10,	)	
	)	
Defendants.	)	
	)	
<hr/>		
SHELDEN GREENBERG, Individually and On	)	
Behalf of All Others Similarly Situated,	)	
	)	Case No. 08-CV-3334 (RWS)
Plaintiff,	)	
	)	
vs.	)	
	)	
THE BEAR STEARNS COMPANIES INC.	)	
JAMES E. CAYNE; ALAN C. GREENBERG;	)	
JEFFREY MAYER; SAMUEL L. MOLINARO,	)	
JR., ALAN D. SCHWARTZ; WARREN J.	)	
SPECTOR; and JOHN AND JANE DOES 1-10,	)	
	)	
Defendants.	)	
	)	

SCOTT WETTERSTEN, individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

THE BEAR STEARNS COMPANIES INC.,  
JAMES E. CAYNE, ALAN D. SCHWARTZ,  
WARREN J. SPECTOR, SAMUEL L.  
MOLINARO, ALAN C. GREENBERG, and JOHN  
AND JANE DOES 1-10,

Defendants.

Case No. 08-CV-3351 (RWS)

RITA RUSIN, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

THE BEAR STEARNS COMPANIES, INC.,  
JAMES E. CAYNE, ALAN D. SCHWARTZ,  
WARREN J. SPECTOR, SAMUEL L.  
MOLINARO, JR., ALAN C. GREENBERG, and  
JOHN AND JANE DOES 1-20,

Defendants.

Case No. 08-CV-3441 (RWS)

LAWRENCE FINK, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

THE BEAR STEARNS COMPANIES, INC.,  
JAMES E. CAYNE, ALAN D. SCHWARTZ,  
WARREN J. SPECTOR, SAMUEL L.  
MOLINARO, JR., ALAN C. GREENBERG, and  
JOHN AND JANE DOES 1-20,

Defendants.

Case No. 08-CV-3602 (UA)

Plaintiffs Aaron Howard and Sheldon Greenberg (the “*Howard* Plaintiffs”), by counsel, respectfully present this submission regarding Defendants’ response to the Motions for Consolidation.

The *Howard* Plaintiffs and Defendants are largely in agreement, inasmuch as both parties concur that all of the “Bear Stearns ERISA Actions”<sup>1</sup> should be consolidated pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, and that the parties should confer regarding the schedule for filing a consolidated complaint and Defendants’ response(s) thereto. However, there is one area of potential disagreement: The *Howard* Plaintiffs maintain that, in addition to the documents required to be produced pursuant to ERISA § 104(b), Defendants should produce such limited additional “core” ERISA documents needed to properly identify all appropriate defendants (“Core Documents”) prior to the filing of a consolidated complaint.<sup>2</sup> In their Response, Defendants resisted the *Howard* Plaintiffs’ request for the production of Core Documents and maintained that, pursuant to the temporary stay imposed by Rule 26(d) of the Federal Rules of Civil Procedure, all such production should await the completion of the parties’ conference pursuant to Rule 26(f).

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<sup>1</sup> The ten Bear Stearns ERISA complaints are as follows: *Howard v. Bear Stearns Cos. Inc., et al.*, No. 08-2804 (S.D.N.Y. Mar. 17, 2008); *Weber v. Bear Stearns Cos. Inc., et al.*, No. 08-2870 (S.D.N.Y. Mar. 18, 2008); *Pisano v. Bear Stearns Cos. Inc., et al.*, No. 08-3006 (S.D.N.Y. Mar. 24, 2008); *Menos v. Bear Stearns Cos. Inc., et al.*, No. 08-3035 (S.D.N.Y. Mar. 25, 2008); *Gerwitz v. Bear Stearns Cos. Inc., et al.*, No. 08-3089 (S.D.N.Y. Mar. 26, 2008); *Lounsbury v. Bear Stearns Cos. Inc., et al.*, No. 08-3326 (S.D.N.Y. Apr. 3, 2008); *Greenberg v. Bear Stearns Cos. Inc., et al.*, No. 08-3334 (S.D.N.Y. Apr. 3, 2008); *Wettersten v. The Bear Stearns Cos. Inc., et al.*, No. 08-03351 (S.D.N.Y. Apr. 4, 2008); *Rusin v. The Bear Stearns Cos. Inc., et al.*, No. 08-cv-3441 (S.D.N.Y. Apr. 4, 2008); and *Fink v. The Bear Stearns Cos. Inc., et al.*, No. 08-3602 (S.D.N.Y. Apr. 15, 2008).

<sup>2</sup> Courts in numerous other ERISA breach of fiduciary duty cases have recognized the importance of properly naming parties in consolidated complaints, and have ordered defendants to produce Core Documents prior to the filing of a consolidated complaint. See paragraph 6 of attached Pretrial Order from *In re Visteon ERISA Litig.*, attached as Exhibit A hereto; paragraph 1 of attached Stipulation from *In re Marsh & McLennan ERISA Litig.*, attached as Exhibit B hereto; paragraph 18 of attached Order from *In re Polaroid ERISA Litig.*, attached as Exhibit C hereto; and paragraph 1 of the attached Stipulated Scheduling Order from the *In re Ford ERISA Litig.*, attached as Exhibit D hereto. Thus, counsel for the *Howard* Plaintiffs have sought such Core Documents in their [Proposed] Order Consolidating Related Actions and Appointing Interim Lead Plaintiffs and Interim Co-Lead and Liaison Counsel (“Proposed Order”).

In an effort to reach resolution of this issue without intervention by the Court, counsel for the *Howard* Plaintiffs has contacted counsel for The Bear Stearns Companies Inc. (“Bear Stearns”). At the time of this filing, counsel for Bear Stearns and the *Howard* Plaintiffs—with each fully reserving their respective rights—are attempting informally to reach agreement with respect to the provision of such Core Documents. Counsel for the *Howard* Plaintiffs is hopeful that these informal efforts will be productive. This effort is consistent with the *Howard* Plaintiffs’ goal of ensuring efficient and effective prosecution of this action.

Dated: New York, New York  
April 21, 2008.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this date that a true and correct copy of the foregoing Plaintiffs Aaron Howard and Sheldon Greenberg's Submission Regarding Defendants' Response to Motions for Consolidation was served on the following via the Court's ECF filing system.

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*Counsel for Plaintiff Drew V. Lounsbury*

/s/

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Milo Silberstein

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TROY SKILES, et al,

Plaintiffs,

v.

Case No. 05-71205

VISTEON CORP., et al

HONORABLE AVERN COHN

Defendants.

\_\_\_\_\_/

TIM OWENS, et al,

Plaintiffs,

v.

Case No. 05-72042

VISTEON CORP., et al,

HONORABLE AVERN COHN

Defendants.

\_\_\_\_\_/

ONIE MOORE, et al,

Plaintiffs,

v.

Case No. 05-72344

VISTEON CORP., et al,

HONORABLE AVERN COHN

Defendants.

\_\_\_\_\_/

**PRETRIAL ORDER No. 1**

The three captioned cases are each an action under ERISA brought by participants in Visteon's retirement plan generally claiming breach of fiduciary duties by defendants.

On July 1, 2005, the Court held a telephone conference with the parties. The following attorneys were on the call:

For plaintiffs:

Elwood Simon  
Cyrus Mehri  
Steve Wasinger  
Joe Wells  
Mark Gyandoh  
Michael Lieder  
Mark Amadeo  
Elizabeth Leland  
John Zuccarini  
Lisa Bornstein

For defendants:

John Hartman  
Michael Duffy  
Scott Seabolt  
Paul Ondrasik  
Tom McNeil

This Order memorializes the Court's rulings at the conference.

1. Defendants' Motions to Transfer and Consolidate are DENIED.
2. Plaintiffs' Motion to Consolidate is GRANTED. The three cases are consolidated under case no. 05-71205 and shall be referred to collectively as In re Visteon Corp. ERISA Litigation.
3. If plaintiffs are unable to agree on the appointment of lead counsel within 2 weeks, the Court will entertain motions. A hearing on the motions will be held on Tuesday, July 26, 2005 at 2:00 pm.
4. Ten days following an agreement or decision on lead counsel plaintiffs shall file a consolidated amended complaint.
5. Defendants shall agree on the appointment of a liaison counsel on or before July 26, 2005.

6. The parties shall lodge the following with the Court on or before July 26, 2005:
  - a. A tabular list of defendants and their positions; if defendants can be grouped, list the groups
  - b. A tabular list of attorneys keyed, in the case of defendants, to the various defendants
  - c. A compendium of plan documents, indexed and tabbed with relevant portions highlighted. If the parties cannot agree on the relevant portions each party may highlight the relevant portions in different colors.
  - d. A chart of the management structure of the ERISA retirement plan(s).
  - e. A compendium of ERISA documents, including statutes, regulations, and other directives/documents, indexed and tabbed and appropriately highlighted
7. Following the receipt of the above, including the filing of a consolidated amended complaint, the Court will hold a status conference to consider the entry of a case management order.
8. The parties shall appear for a status conference on July 26, 2005 at 2:00pm which shall follow the hearing on the appointment of lead counsel for plaintiffs, if necessary.
9. Any objections to this Order shall be filed within 5 days.

SO ORDERED.

Dated: July 6, 2005

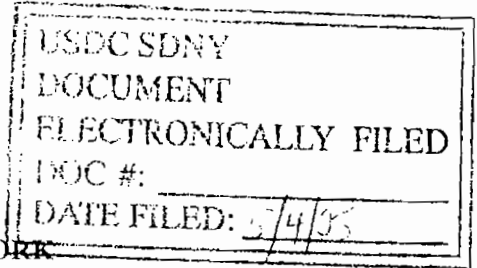
s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was sent to counsel of record on this date, July 6, 2005, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK



IN RE MARSH  
ERISA LITIGATION

THIS DOCUMENT RELATES TO: All  
Actions

MASTER FILE: 04 cv 8157

**RECEIVED**

APR 28 2005

JUDGE S. W. KRAM  
CHAMBERS

**STIPULATION AND [REDACTED] SCHEDULING ORDER**

Lead Plaintiffs, Carol Renzi, Donald Hundley, Conrad Simon, and Kristina Schatz (collectively, "Lead Plaintiffs") and Defendants Marsh & McLennan Companies, Inc., Patricia A. Agnello, Sandra S. Wijnberg, Sandra Wright, William L. Rosoff ("Marsh & McLennan Defendants"), Jeffrey W. Greenberg, and State Street Corporation (collectively, the "Defendants"), by and through their respective counsel, hereby stipulate and agree that:

1. The Marsh & McLennan Defendants and Defendant Greenberg will produce core ERISA documents on or before May 2, 2005: The core ERISA documents include, but are not limited to, "Plan documents and materials that describe the operation, administration, and management of the Plan; documents that identify the Plan fiduciaries and describe the scope of their fiduciary duties; and board or committee minutes and/or resolutions that pertain to the Plan . . . [which] show the appointment or removal of Plan fiduciaries or otherwise demonstrate the fiduciary function of the board or any committee." See Order dated February 8, 2005. To the extent that these defendants do not possess any such documents, such party shall so inform the other parties in writing on or before May 2, 2005.

2. Lead Plaintiffs shall file a Consolidated Class Action Complaint (the "Consolidated Complaint") on or before June 15, 2005;

3. Defendants shall answer or otherwise respond to the Consolidated Complaint on or before August 15, 2005.

4. If Defendants move with respect to the Consolidated Complaint, they shall file a consolidated memorandum in support of their motion. In addition to joining the consolidated



memorandum, Defendant Jeffrey W. Greenberg shall be entitled to file a supplemental memorandum, and Defendant State Street shall be entitled to file a separate motion with supporting memorandum. Lead Plaintiffs shall file their oppositions to all Defendants' motions on or before September 30, 2005.

5. All Defendants shall file their replies to Lead Plaintiffs' oppositions on or before November 1, 2005.

6. The Court's page limitation on the parties' filings with regard to Defendants' motion to dismiss shall be modified as follows:

- fifty (50) pages for the Defendants' Memorandum in Support of Their Motion to Dismiss; ten (10) pages for Defendant Jeffrey W. Greenberg's Supplemental Memorandum in Support of Motion to Dismiss; fifty (50) pages for State Street's Memorandum in Support of Its Motion to Dismiss;
- fifty (50) pages for Plaintiffs' Opposition to Defendants' Motion to Dismiss, ten (10) pages for Plaintiffs' Opposition to Defendant Jeffrey W. Greenberg's Supplemental Memorandum in Support of Motion to Dismiss; fifty (50) pages for Plaintiffs' Opposition to State Street's Motion to Dismiss;
- twenty-five (25) pages for Defendants' Reply in Further Support of Their Motions to Dismiss, five (5) pages for Defendant Jeffrey W. Greenberg's Supplemental Reply in Further Support of Defendants' Motion to Dismiss; twenty-five (25) pages for State Street's Reply in Further Support of Its Motions to Dismiss.

7. The parties will further confer and propose to the Court a mutually agreeable schedule for discovery and briefing on issues related to class certification subsequent to the disposition of Defendants' Motion to Dismiss.

Dated: April 27, 2005.

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Derek W. Loeser (DL-6712)  
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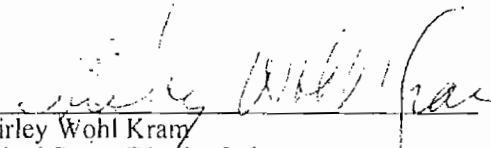
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Jeffrey W. Greenberg*

SO ORDERED:

Date: May 3, 2005

  
Shirley Wohl Kram  
United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this date I filed electronically the above Stipulation and [Proposed] Scheduling Order with the Clerk of the U.S. District Court, Southern District of New York, and served true and correct copies on the following counsel of record via email transmission and regular U.S. Mail.

April 27, 2005.

/s/ Leslie Boston  
Leslie Boston

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**Motions**

1:04-cv-08157-SWK Walsh v. Marsh &amp; McLennan Companies, Inc. et al

**U.S. District Court****Southern District of New York****Notice of Electronic Filing**

The following transaction was received from Loeser, Derek W, entered on 4/27/2005 at 1:29 PM EDT and filed on 4/27/2005

**Case Name:** Walsh v. Marsh & McLennan Companies, Inc. et al  
**Case Number:** 1:04-cv-8157  
**Filer:** Frank J. Tasco  
 Norman Barham  
 Ray J. Groves  
 Frank J. Borelli  
 Sandra Wright  
 Marsh & McLennan Companies, Inc.  
 Peter Coster  
 Charles A. Davis  
 A.J.C. Smith  
 J.W. Greenberg  
 William L. Rosoff  
 Marsh & McLennan Companies, Inc. Stock Investment Plan Committee  
 Sandra S. Wijnberg  
 John T. Sinnott  
 Marsh & McLennan Companies, Inc. Benefits Administration Committee  
 Barbara C. Walsh  
 Mathis Cabiallevetta  
 Rita Malavotte  
 Jim Smietana  
 Charles Tooley

**Document Number:** 22**Docket Text:**

MOTION Stipulated/Proposed Scheduling Order re Consolidated Complaint. Document filed by Ray J. Groves, A.J.C. Smith, Peter Coster, John T. Sinnott, Frank J. Tasco, Mathis Cabiallevetta, Charles A. Davis, Marsh & McLennan Companies, Inc. Benefits Administration Committee, Marsh & McLennan Companies, Inc. Stock Investment Plan Committee, Sandra S. Wijnberg, Barbara C. Walsh, Rita Malavotte, Jim Smietana, Charles Tooley, Marsh & McLennan Companies, Inc., J.W. Greenberg, Sandra Wright, William L. Rosoff, Norman Barham, Frank J. Borelli, (Loeser, Derek)

The following document(s) are associated with this transaction:

**Document description:**Main Document**Original filename:**n/a**Electronic document Stamp:**

[STAMP deccfStamp\_ID=1008691343 [Date :4/27/2005] ]FileNumber=1230532-0  
 [ [59b3745d8d9a595aee4d7382d98466c2412bade83cfd4a171cf68ea3249694fd6ca  
 db1a9b43d0c93c741af23d17198547c97cf8f0c8628a684c39fb125ffe71] ]

**1:04-cv-8157 Notice will be electronically mailed to:**

Eric James Belli ebelli@murrayfrank.com

Michael Svetkey Feldberg michael.feldberg@newyork.allenoverly.com,  
 todd.fishman@newyork.allenoverly.com;kurt.vellek@newyork.allenoverly.com;andrew.matheson@newyork.allenoverly.com

Robert Ira Harwood rharwood@whesq.com, tsawchuk@whesq.com

Christopher J. Keller ckeller@glrslaw.com, ElectronicCaseFiling@glrslaw.com

Mark C. Rifkin rifkin@whath.com

1:04-cv-8157 Notice will be delivered by other means to:



# **EXHIBIT C**

**LAW OFFICES  
OF  
CURTIS V. TRINKO, LLP**  
16 WEST 46TH STREET  
7TH FLOOR  
NEW YORK, NEW YORK 10036  
TELEPHONE (212) 490-9550

RE: [redacted]

FILE NO. [redacted]

FAX NO. (212) 986-0158

EMAIL: CTRINKO@TRINKO.COM

March 9, 2004

**By Regular Mail**

TO ALL COUNSEL ON  
ANNEXED SERVICE LIST:

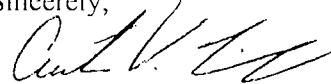
**Re: In re Polaroid ERISA Litigation  
Master File No. 03 CV 8335 (WHP)**

Dear Counsel:

Annexed is a copy of Pretrial Order No. 1, as ordered by Judge Pauley on March 5, 2004. There were no judicially-made revisions to the proposed Pretrial Order that we submitted to the Court on March 1, 2004.

As per Paragraph 13 of the aforesaid Pretrial Order No. 1, we will need the various defense firms to confer and appoint a Defendants' Liaison Counsel. As you will note, the Court directed service of documents to be made pursuant to the Manual for Complex Litigation, which is reflected in Paragraph 13. Please let me know as soon as possible the identity of Defendants' Liaison Counsel.

Sincerely,



Curtis V. Trinko

CVT/ld

31-10-1

Copy of [unclear]  
[unclear]  
LHUNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

ROBERT CORREIA, on behalf of himself and  
all other similarly situated and on behalf of the  
Polaroid Retirement Savings Plan,

Plaintiff,

v.

GARY DICAMILLO, CARL LUEDERS,  
DONALD HALSTED, WILLIAM L.  
FLAHERTY, JUDITH G. BOYNTON, JOHN  
W. LOOSE, ALBIN F. MOSCHNER, RALPH  
Z. SORENSON, BERNIE D.L. STROM,  
ALFRED M. ZEJEN, MELLON BANK, N.A.  
BOSTON SAFE DEPOSIT AND TRUST  
COMPANY and DOES 1-100,

Defendants.

Case No. 03 CV 8335 (WHP)

[unclear]  
No. 1  
[unclear]

JOHN HUDSON, on behalf of himself and all  
other similarly situated and on behalf of the  
Polaroid Retirement Savings Plan,

Plaintiff,

v.

BOSTON SAFE DEPOSIT AND TRUST  
COMPANY, GARY DICAMILLO, WILLIAM  
L. FLAHERTY, JUDITH G. BOYNTON,  
DONALD HALSTED, JOHN W. LOOSE,  
CARL LUEDERS, , MELLON BANK, N.A.,  
ALBIN F. MOSCHNER, RALPH Z.  
SORENSON, BERNIE D.L. STROM,  
ALFRED M. ZEJEN, and DOES 1-100,

Defendants.

Case No. 03 CV 8976 (WHP)

---

OTIS D. POWERS and BRADWORD W.  
PIRES, on behalf of themselves and all other  
similarly situated and on behalf of the Polaroid  
Retirement Savings Plan,

Plaintiffs,

v.

GARY DICAMILLO, WILLIAM L.  
FLAHERTY, JOHN W. LOOSE, ALBIN F.  
MOSCHNER, RALPH Z. SORENSON,  
BERNEE D.L. STROM, ALFRED M. ZEIEN,  
and DOES 1-30,

Defendants.

---

Case No. 04 CV 0282 (WHP)

**[PROPOSED] PRETRIAL ORDER NO. 1**

WHEREAS, the above-referenced actions allege breaches of fiduciary duties in violation of ERISA involving the Polaroid Retirement Savings Plan (the "Plan"), a retirement plan established and sponsored by Polaroid Corporation ("Polaroid" or the "Company") as a benefit for its employees (collectively, the "ERISA actions"), and such actions involve common questions of law and fact;

WHEREAS, formal consolidation of the ERISA actions for pretrial purposes and appointment of Liaison Counsel and Co-Lead Counsel is appropriate as consistent with the recommendations of the *Manual for Complex Litigation –Fourth* (2003);

WHEREFORE, the Court hereby Orders as follows:

**I. CONSOLIDATION OF RELATED ACTIONS**

1. a). Certain Defendants are not willing to stipulate at this time to consolidation of the actions for trial, but have stipulated to consolidation for pretrial purposes only.  
Therefore, at this time the above-captioned ERISA actions and any action arising out of the same operative facts now pending or hereafter filed in or transferred to this Court are hereby consolidated for pretrial purposes only ("Consolidated Action"). They shall be referred to collectively as *In re Polaroid ERISA Litigation*, Master File No. 03 CV 8335 (WHP). This order does not constitute a determination as to whether or not these actions should be consolidated for trial pursuant to Fed. R. Civ. P. 42(a), although the Court will determine later in these proceedings whether such consolidation would be appropriate.
- b). All Defendants shall provide a separate statement to the Court on or before June 1, 2004 as to whether they consent to the consolidation of these actions for all purposes, or whether the issue of such further consolidation will be submitted for judicial determination.

**II. CAPTION OF CASES**

2. Every pleading filed in the Consolidated Action shall bear the following caption:

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

\_\_\_\_\_  
IN RE POLAROID ERISA  
LITIGATION

\_\_\_\_\_  
MASTER FILE: 03 CV 8335 (WHP)

\_\_\_\_\_  
THIS DOCUMENT RELATES TO:  
\_\_\_\_\_  
\_\_\_\_\_

3. When a pleading or other court paper filed in the Consolidated Action is intended to apply to all actions therein, the words "All Actions" shall appear immediately after the words "THIS DOCUMENT RELATES TO:" in the caption set out above. When a pleading or other court paper is intended to be applicable to less than all such actions, the party filing the document shall indicate, immediately after the words "THIS DOCUMENT RELATES TO:" the action(s) to which the document is intended to be applicable by last name of the plaintiff(s) and the docket number(s).

**III. MASTER DOCKET**

4. A Master Docket is hereby established for the Consolidated Action, including actions subsequently consolidated herein pursuant to this Order. Entries in said Master Docket shall be applicable to the Consolidated Action, and entries shall be made therein in accordance with the regular procedures of the Clerk of this Court, except as modified by this Order.

5. When a pleading is filed and the caption, pursuant to this Order, shows that it is applicable to "All Actions," the Clerk shall file such pleading in the Master File and note such filing in the Master Docket. No further copies need be filed nor other docket entries made.

6. When a paper is filed and the caption shows that it is applicable to fewer than All Actions, the Clerk shall file the original of the paper in the Master File and a copy in the file of each separate action to which it applies and shall note such filing in the Master Docket and in the docket of each separate action. The party filing such paper shall supply the Clerk with sufficient copies of any such paper to permit compliance with this paragraph.

#### **IV. MASTER FILE AND SEPARATE ACTION FILES**

7. A Master File is hereby established for the consolidated proceedings in the Consolidated Action. The Master File shall be Civil Action No. 03 CV 8335 (WHP). The original of this Order shall be filed by the Clerk in the Master File herein established. The Clerk shall maintain a separate file for each of the Consolidated Actions and filings shall be made in accordance with the regular procedures of the Clerk of this Court, except as modified by this Order. The Clerk shall file a copy of this Order in each such separate file. The Clerk shall mail a copy of this Order to counsel of record in each of the Consolidated Actions.

#### **V. NEWLY FILED OR TRANSFERRED ACTIONS**

8. When a case that arises out of the same operative facts as the Consolidated Action is hereinafter filed in or transferred to this Court, it shall be consolidated with these actions as provided in Section I above and thereafter, the Clerk of this Court shall:

- (a) File a copy of this Order in the separate file for such action;
- (b) Mail a copy of this Order to the attorneys for the plaintiff(s) in the newly-filed or transferred case and to any new defendant(s) in the newly-filed or transferred case; and
- (c) Make the appropriate entry in the Master Docket.

9. The Law Offices of Curtis V. Trinko, LLP shall assist the Clerk by calling to the attention of the Clerk of this Court the filing or transfer of any case that might properly be consolidated as part of this litigation.

**VI. APPLICATION OF THIS ORDER TO SUBSEQUENT CASES**

10. This Order shall apply to each proposed class action assigned to the undersigned alleging claims similar to those set forth in these actions and brought on behalf of participants in or beneficiaries of the Polaroid Retirement Savings Plan. This Order shall apply to each such case which is subsequently filed in or transferred to this Court, and which is assigned to the undersigned, unless a party objecting to the consolidation of that case or to any other provision of this Order serves an application for relief from this Order or from any of its provisions within ten (10) days after the date on which the Clerk mails a copy of this Order to the counsel of that party. The provisions of this Order shall apply to such action pending the Court's ruling on the application.

11. Unless a plaintiff in a subsequently filed or transferred case is permitted by the Court to use a separate complaint, defendants shall not be required to answer, plead or otherwise move with respect to that complaint. If a plaintiff in any such case is permitted to use a separate complaint, each defendant shall have sixty days from the date the Court grants such permission within which to answer, plead or otherwise move with respect to that complaint.

**VII. ORGANIZATION OF COUNSEL**

12. The Court designates the following to act as Co-Lead Counsel and as Liaison Counsel for plaintiffs in the Consolidated Action, with the responsibilities hereinafter described:

a. As Co-Lead Counsel for Plaintiffs

Keller Rohrback L.L.P.  
1201 Third Avenue, Suite 3200  
Seattle, Washington 98101  
Telephone: (206) 623-1900  
Facsimile: (206) 623-3384

Schiffrin & Barroway, L.L.P.  
Three Bala Plaza East, Suite 400  
Bala Cynwyd, PA 190004  
Telephone: (610) 667-7706  
Facsimile: (610) 667-7056



b. As Liaison Counsel

Laws Offices of Curtis V. Trinko, L.L.P.  
16 West 46th Street, 7th Floor  
New York, NY 10036  
Telephone: (212) 490-9550  
Facsimile: (212) 986-0158

13. Liaison Counsel in the Consolidated Action is charged with administrative matters such as receiving and distributing pleadings, notices, orders, motions and briefs, and advising parties of developments in the case.

a). The service of documents will be made pursuant to the Manual for Complex *Litigation – Fourth (2003)*.

1. Orders. A copy of each order will be provided to Plaintiffs' Liaison Counsel and Defendants' Liaison Counsel for distribution as appropriate to other counsel and parties.
2. Pleadings, Motions, and Other Documents. Plaintiffs' Liaison Counsel will be provided with four (4) copies of each pleading, motion, or other document filed by a party; Defendants' Liaison Counsel will be provided with six (6) copies of each such document. Pursuant to Fed. R. Civ. P. 5, service on liaison counsel constitutes service on other attorneys and parties for whom liaison counsel is acting. Such service shall be deemed effective seven days after service on liaison counsel.

14. Co-Lead Counsel shall have authority over the following matters on behalf of all plaintiffs in those respective actions: (a) convening meetings of counsel; (b) initiating, responding to, scheduling, briefing, and arguing of all motions; (c) determining the scope, order, and conduct of all discovery proceedings; (d) assigning such work assignments to other counsel

as they may deem appropriate; (e) retaining plaintiffs' experts; (f) proposing selection of Named Plaintiffs for inclusion in any and all Consolidated Amended Complaint(s); (g) designating which attorneys may appear at hearings and conferences with the Court; (h) conducting settlement negotiations with defendants; and (i) other matters concerning the prosecution of or resolution of their respective cases.

15. Co-Lead Counsel shall have authority to communicate with defendants' counsel and the Court on behalf of all plaintiffs. Defendants' counsel may rely on all agreements made with any one of the Co-Lead Counsel, and such agreements shall be binding.

#### **VIII. COORDINATION**

16. Co-Lead Counsel shall coordinate activities to avoid duplication and inefficiency in the filing, serving and/or implementation of pleadings, other court papers, discovery papers, and discovery practice.

#### **IX. SCOPE OF ORDER**

17. The terms of this Order shall not have the effect of making any person, firm or entity a party to any action in which he, she or it has not been named, served or added as such in accordance with the Federal Rules of Civil Procedure. The terms of this Order and the consolidation ordered herein shall not constitute a waiver by any party of any claims in or defenses to any action.

#### **X. PRELIMINARY SCHEDULE OF PROCEEDINGS**

18. Each party who has not already done so shall make available for inspection and copying all Plan-related documents in their possession on or before March 15, 2004: such production shall include those documents under which the Plan is established or operated, and shall also include all Board Minutes and/or Resolutions concerning the appointment, duties and responsibilities of Plan fiduciaries during the Class Period. Such Board Minutes and Resolutions

can be redacted for any non-fiduciary matters.]. To the extent any party does not possess any such documents, such party shall so inform the other parties in writing on or before March 15, 2004.

19. When a production is made, the producing party shall notify all other parties of the production, and make copies of the production available to requesting parties at the requesting parties' reasonable expense for copying and delivery.

20. Subject to the Court's approval, Plaintiffs will not seek other discovery from Defendants without leave of Court and for good cause shown until after motions to dismiss filed by the Defendants per the schedule set forth below are resolved by the Court.

21. All parties shall be notified of any third-party production of documents, which also shall be made available to any party requesting copies of such documents at the requesting parties' expense for copying and delivery.

22. Plaintiffs shall file a Consolidated ERISA complaint on or before April 15, 2004. The consolidated complaint shall be the operative complaint and shall supersede all complaints filed in any of the actions consolidated herein. Pending filing and service of the consolidated complaint, defendants shall have no obligation to move, answer, or otherwise respond to any of the complaints in the actions consolidated herein or any actions subsequently consolidated with them.

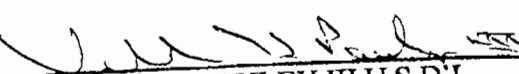
23. Defendants shall answer or otherwise respond to the Consolidated ERISA Complaint on or before June 1, 2004. If the Defendants move to dismiss they should do so in a single consolidated motion and memorandum. Plaintiffs shall serve their opposition to any motions brought by Defendants on or before July 12, 2004, and Defendants shall serve their single, consolidated reply, if any, on or before July 26, 2004.

a). The Court's page limitations on the parties' filings with regard to Defendants' motions to dismiss shall be extended to fifty (50) pages for the Defendants' Consolidated Memorandum In Support Of Their Motions To Dismiss; fifty (50)

pages for Plaintiffs' Memorandum In Opposition To Defendants' Motions To Dismiss; and twenty-five (25) pages for Defendants' Consolidated Reply In Further Support Of Their Motions To Dismiss.

b). Oral Argument with regard to Defendants' Motions to Dismiss is scheduled for 11:00 A.M. on September 17, 2004 in Courtroom 11D, 500 Pearl Street, New York, New York. The court has scheduled one and one-half (1 ½) hours for this oral argument.

24. The parties will further confer and propose to the Court a mutually agreeable schedule for discovery and briefing on issues related to class certification subsequent to the disposition of Defendants' Motions To Dismiss.

SO ORDERED: 3/5/04  
  
WILLIAM H. PAULEY III U.S.D.J.

**SERVICE LIST**  
**IN RE POLAROID ERISA LITIGATION**

**PLAINTIFFS:**

Joseph H. Meltzer, Esq.  
Schiffirin & Barroway, LLP  
Three Bala Plaza East  
Suite 400  
Bala Cynwyd, Pennsylvania 19004

**Proposed Lead Counsel For Plaintiffs and the Class**

Lynn Lincoln Sarko, Esq.  
Derek W. Loeser, Esq.  
Cari Campen Laufenberg, Esq.  
Keller Rohrback, LLP  
1201 Third Avenue, Suite 3200  
Seattle, Washington 98101-3052

**Proposed Co-Lead Counsel For Plaintiffs and the Class**

Evan J. Smith, Esq.  
Brodsky & Smith, LLC  
240 Mineola Boulevard  
Mineola, New York 11501

**Assisting Counsel For Plaintiffs and the Class**

**DEFENDANTS:**

Emily Frug Klineman, Esq.  
Ropes & Gray  
One International Place  
Boston, Massachusetts 02110-2624

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McCarthy & Gordon, LLC  
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**Attorney for Defendant Carl Lueders**

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David P. Donovan  
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Ralph Z. Sorenson, Bernee D. L. Strom, and Alfred M. Zein**

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**Attorney for Defendant Judith Boynton**

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**Attorney for Defendant Merganser Capital Management Corporation**

Christa D. Haas, Esq.  
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Groom Law Group  
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Washington, DC 20006-5881

**Attorney for Defendants Mellon Bank, N.A. and  
Boston Safe Deposit and Trust Company**

# **EXHIBIT D**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

THEODORE NOWAK and GARY )  
BROCKWAY, Individually and On Behalf )  
of All Others Similarly Situated, )

Plaintiffs, )

vs. )

FORD MOTOR COMPANY, MICKEY )  
POLI-BARTLETT, WILLIAM CLAY )  
FORD, JR., JOSEPH W. LAYMON, )  
DONAT R. LECLAIR, DAVID G. )  
LEITCH, ROMAN J. KRYGIER, and )  
JOHN DOES 1-20. )

Defendants. )

**Consolidated Cases**  
**Master Case No. 06-cv-11718**

**Honorable Paul V. Gadola**  
**Magistrate Steven D. Pepe**

**STIPULATED SCHEDULING ORDER**

Lead Plaintiffs Mark Ousachi and David Cooper and Defendants, by and through their respective counsel, hereby stipulate and agree that:

1. On or before March 28, 2007, Defendants will produce the Plan Documents for the Ford Motor Company Savings and Stock Investment Plans for Salaried Employees and the Ford Motor Company Tax-Efficient Savings Plans for Hourly Employees (collectively, the "Plans") applicable from April 15, 2000 to the present, excluding those documents already produced pursuant to ERISA § 104(b)(4). In addition, Defendants will produce current Investment Guides for the Plans, the Plans' current Investment Policy Guidelines, and the Plans' Summary of Material Modifications that were published subsequent to the ERISA § 104(b)(4) production. Furthermore, Defendants will provide a list of individuals who served on the Investment Process Committee, the Investment Process Oversight Committee, and the Administration Committee, as well as the persons who appointed those individuals to the committees. Defendants also will provide the identity of any Ford Stock Manager, as defined in the Plans. This list will cover the time period from April 15, 2000 to the present. In lieu of the above referenced list, Defendants



may produce Plan Documents and information from which all of the same information can readily be determined by Plaintiffs.

2. Lead Plaintiffs shall file a Consolidated Class Action Complaint (the "Consolidated Complaint") on or before April 30, 2007;

3. Defendants shall answer or otherwise respond to the Consolidated Complaint on or before June 29, 2007;

4. If Defendants move to dismiss the Consolidated Complaint, they shall do so in a single consolidated pleading not to exceed 40 pages; Lead Plaintiffs shall file a single opposition to Defendants' motion not to exceed 40 pages on or before August 14, 2007;

5. Defendants shall file a single consolidated reply to Lead Plaintiffs' opposition not to exceed 20 pages on or before September 14, 2007;

6. The parties will further confer and propose to the Court a mutually agreeable schedule for discovery and briefing on issues related to class certification depending on the disposition of Defendants' Motion to Dismiss.

/s/ Stephen Wasinger  
Stephen Wasinger (P-25963)  
**STEPHEN F. WASINGER PLC**  
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Royal Oak, MI 48073-0999  
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sfw@sfwlaw.com

**Liaison Counsel for Plaintiffs**

**KELLER ROHRBACK L.L.P.**

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Lynn L. Sarko  
Derck W. Loeser  
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lsarko@kellerrohrback.com

By: /s/ Gary S. Tell  
Gary S. Tell  
Robert N. Eccles  
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**Attorneys for Defendants**

**SCHIFFRIN BARROWAY TOPAZ  
& KESSLER, LLP**

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**Co-Lead Counsel for Plaintiffs**

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Michelle Thurber Czapski (P-47267)  
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**Attorneys for Defendants**

IT IS SO ORDERED.

s/Paul V. Gadola

Honorable Paul V. Gadola

United States District Court Judge

Dated: March 27, 2007